

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Rajeev Gupta

-----Vice Chairman (A)

**CLAIM PETITION NO. 18/SB/2020**

Dr. Dinesh Chandra Singh Rawat, aged about 58 years, S/o Late Shri R.S. Rawat,  
Joint Director, Animal Husbandry, Kotdwar, Pauri.

.....Petitioner

**vs.**

1. State of Uttarakhand through Secretary, Dehradun.
2. Secretary, Animal Husbandry, Government of Uttarakhand, Secretariat,  
Subhash Road, Dehradun.
3. Director, Animal Husbandry Directorate, Mothrowala, Dehradun.

.....Respondents.

Present: Ms. Anupama Gautam & Shri A.S. Bisht, Advocates, for the petitioner.  
Sri V.P.Devrani, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: APRIL 07, 2021**

**Per: Rajeev Gupta, Vice Chairman (A)**

This claim petition has been filed for seeking the following reliefs:

*“(a) That the petitioner seeks quashing of “Bad” Entry in his Service Book by the respondent no. 2 vide letter no. 1504/XV-1/20/2(1)/2020 dated 14.1.2020 dismissing the representation.*

*(b) Full cost of the petition.*

*(c) Any other relief to which the petitioner is found entitled may very kindly be granted.”*

2. Briefly the facts of the case as stated in the claim petition are as follows:

The petitioner is employed as Joint Director/Disease Investigation Officer, Kotdwar, Pauri in Animal Husbandry Department. The Respondents proposed an adverse entry to the petitioner for the financial year 2018-19 and vide letter dated 14.08.2019(Annexure: A2) an

Opportunity was given to the petitioner to submit representation against the same. The petitioner sent reply to the same *vide* his letter dated 11.10.2019(Annexure: A3) to respondent No. 2. *Vide* impugned order dated 14.01.2020(Annexure: A1), the respondent No. 2 rejected the explanation of the petitioner without disclosing any reason for the same and affirmed the adverse entry. Hence this petition.

3. Counter Affidavit filed on behalf of the respondents states that for the financial year 2018-19, the Reporting Authority of the petitioner, Additional Director, Animal Husbandry, Garhwal Mandal, Pauri, presented his report before the respondent No. 3, Reviewing Authority, Director Animal Husbandry, Uttarakhand against the petitioner alleging serious negligence against the petitioner in the discharge of his official duty. The allegations levelled against the petitioner are such as not giving progress report of Disease Investigation Laboratory, not achieving the targets fixed for the office of petitioner, not giving progress report for the months of December, January, February and March and engaging in misbehavior and making allegations and counter allegations with co-officer at Disease Investigation Laboratory, Kotdwar. With regard to these facts, an enquiry was also got conducted by the respondent No. 3. The respondent No. 3 *vide* his letter dated 06.03.2018 directed Additional Director, Animal Husbandry, Garhwal Mandal, Pauri to conduct an enquiry in the above stated matters. The enquiry officer *vide* his letter dated 18.04.2019 submitted his inquiry report to respondent no.3. In the enquiry report as well, the enquiry officer has raised serious dissatisfaction in the discharge of duty by the petitioner and also found fake/forged reporting in OPD register by the petitioner. The Approving/Reviewing Authority after perusal of annual report of petitioner approved the report and *vide* his letter dated 05.07.2019 forwarded the same to the respondent no.2, Accepting Authority, Secretary, Animal Husbandry, Uttarakhand, Dehradun. The respondent No. 2 *vide* his letter dated 14.08.2019 Informed the petitioner about 'adverse entry' awarded to him for the financial year 2018-19 with further opportunity of hearing to petitioner to give his representation against the 'adverse entry' within 45 days' time.

The petitioner in compliance of the directions from the respondent No. 3 submitted his representation against 'adverse entry' for financial year 2018-19 on 11.10.2019 before respondent No.2. The respondent No. 2 after perusal of the representation by petitioner and report in the concerned matter maintained/affirmed adverse entry for the financial year 2018-19 against the petitioner. This entire exercise of awarding adverse entry against petitioner was conducted after affording complete opportunity of hearing to the petitioner in accordance with the procedure given in the relevant Service Rules namely the 'Uttaranchal Government Servant (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2002 (hereinafter called as Rules of 2002) and G.O. dated 25.07.2002 issued by the State Government.

4. The petitioner has stated in the Rejoinder Affidavit that it is incorrect to say that the reporting officer had any authority to give enquiry report or to act as enquiry officer. It is incorrect to say that the reviewing authority, i.e. Respondent No. 3 rationally decided the matter of adverse entry. It is incorrect to say that the petitioner/deponent did not discharge his duty as was required. The petitioner/deponent was to give progress report and achieve target for financial year 2018-19 on the basis of report by his subordinate and his subordinate failed to submit the same timely and against which omission, the petitioner/deponent took action and also sought indulgence of his immediate senior i.e. respondent No. 3 but to no avail. The conduct of the said reporting officer/enquiry officer who made observation against petitioner/deponent in itself is biased and not fair. Also the observation made shows that correcting actions by the petitioner/deponent against his erring subordinate has been observed as alleged misbehavior by the petitioner/deponent. It is incorrect to say that the deponent at all filled up OPD register himself or is duty bound to do.

The Rejoinder Affidavit further states that the respondents completely over looked the explanation/representation of the petitioner and issued the impugned order dated 14.01.2020. It is incorrect to say that the exercise of awarding of adverse entry was conducted after

affording any alleged opportunity of hearing to the petitioner/deponent or as per the procedure given in the mentioned Rules of 2002 or G.O. dated 25.07.2002. The opportunity was not given purposely to petitioner/deponent since his explanation has been left before coming to reasonable conclusion.

5. We have heard learned Counsel for the petitioner and Learned A.P.O. on behalf of the respondents and perused the file.

6. Respondents have quoted and followed the Rules of 2002 for giving the opportunity to the petitioner to submit his representation against the 'adverse entry'. We know, on the basis of the pleadings in other cases that these Rules have been followed by "*Uttarakhand Sarkari Sewak (Pratikool, Achha/Santoshjanak, Uttam, Atiuttam, Utkrashth Varshik Gopaneeya Reporton Ka Prakateekaran Evam Uske Virudh Pratyavedan Aur Sahbaddh Mamlon Ka Niptara) Niyamawali, 2015*" (hereinafter referred to as 'Rules of 2015'). The respondents should have quoted and followed the Rules of 2015 instead of Rules of 2002 as they were the latest available Rules. Learned A.P.O. submitted in the arguments that the provisions regarding communication of 'adverse entry' and opportunity of representation and its disposal are similar in both the Rules. We agree with this contention of Learned A.P.O. and observe that this is not a material mistake committed by the respondent department.

7. The Rules of 2002/2015 require that '*Sakaran-Aadesh*' (reasoned order) shall be passed by the Competent Authority or Accepting Authority for rejecting the representation or for expunging adverse report fully or partly. A perusal of the impugned order dated 14.01.2020 shows that it is titled as '*Sakaran Aadesh*'. This order states that explanation/representation dated 11.10.2019 of the petitioner was sent to the Additional Director, Garhwal Mandal, Pauri, Animal Husbandry Department for his comments/report, who *vide* his letter dated 05.12.2019, sent his comments/report to the Director, Animal Husbandry. The Director, Animal Husbandry sent the same to the

Government *vide* his letter dated 12.12.2019. The order further states that after due consideration on the explanation of the petitioner and the comments/report of the Additional Director, Animal Husbandry, Garhwal Mandal, Pauri on the same, the 'adverse entry' awarded to the petitioner is maintained as it is.

8. It is clear from the above that the respondent No. 2 has not given any reasons for rejection of the petitioner's explanation/representation and has merely stated that it is after due consideration, though this order has been titled as '*Sakaran Aadesh*' (reasoned order). We hold it to be against the Rules of 2002/2015. Respondent No. 2 in his capacity as the Accepting Authority should have analyzed the explanation/representation of the petitioner in the light of the comments/report of the Additional Director, Animal Husbandry, Garhwal Mandal, Pauri and recorded cogent reasons for rejecting the same to justify his order as '*Sakaran Aadesh*'. The same has not been done. The impugned order cannot be sustained and is liable to be quashed.

9. The impugned order dated 14.01.2020 is hereby set aside. The respondent No. 2 is directed to pass a proper and reasoned order either rejecting or accepting fully/partly the representation of the petitioner and accordingly, affirm or expunge/modify the 'adverse entry' awarded to the petitioner, within a period of three months from the date of production of certified copy of this order.

10. The claim petition is disposed of accordingly. No order as to costs.

**(RAJEEV GUPTA)**  
VICE CHAIRMAN (A)

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

*DATE: APRIL 07, 2021*  
*DEHRADUN*  
*KNP*